

## REMARKS/ARGUMENTS

In the Office Action mailed October 30, 2007, claims 15-34 were rejected. Additionally, claims 28-34 were objected to. In response, Applicant hereby requests reconsideration of the application in view of the proposed amendments and the below-provided remarks. No claims are added.

For reference, proposed amendments are presented for claims 15, 19-24, 26, 28, and 31-34 to place the application in better condition for allowance or appeal. In particular, proposed amendments are presented for each of claims 15 and 18 to include limitations related to the first, second, and third controls signals, as well as the corresponding first, second, and third voltage threshold values. Applicant submits that these proposed claim amendments are fully supported by the previous language of the claims. In particular, these proposed claim amendments are supported, for example, by the subject matter of claims 19-26 and 31-34. As a result, proposed claim amendments are presented for many of the dependent claims in order to maintain proper antecedent references. Additionally, claim 25 is canceled.

### Response to Claim Objections

Claims 28-34 were objected to because of informalities. In particular, the Office Action suggests that the “transmission means to receive” of claim 28 should be replaced with “receiving means to receive.” Applicant appreciates the Examiner’s attention to the language of the claims. However, Applicant respectfully notes that transmission operations, generally, can include both sending and receiving. Thus, although transmission can refer to sending information, transmission can also refer to receiving information, as well as the act of communicating the information between two points. Hence, Applicant submits that the use of transmission means in connection with a receive operation is within the scope of transmission operations, generally. Accordingly, since transmission operations may include sending as well as receiving, Applicant respectfully requests that the objections to claims 28-34 be withdrawn.

### Response to Claim Rejections

Claims 15-20, 22, and 28-31 were rejected under 35 U.S.C. 102(b) as being anticipated by Matsubara (U.S. Pat. No. 5,736,728, hereinafter Matsubara). Additionally, claims 21, 23-25, and 32-33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Matsubara in view of Liu (U.S. Pat. Pub. No. 2003/0162496, hereinafter Liu). Additionally, claim 26 was rejected under 35 U.S.C. 103(a) as being unpatentable over Matsubara in view of Liu and further in view of Gallagher, III et al. (U.S. Pat. No. 6,963,270, hereinafter Gallagher). Additionally, claim 27 was rejected under 35 U.S.C. 103(a) as being unpatentable over Matsubara in view of Wuidart et al. (U.S. Pat. No. 6,650,229, hereinafter Wuidart). Additionally, claim 34 was rejected under 35 U.S.C. 103(a) as being unpatentable over Matsubara in view of Gallagher. However, Applicant respectfully submits that these claims are patentable over Matsubara, Liu, Gallagher, and Wuidart for the reasons provided below.

### Independent Claim 15

Claim 15 recites “a third voltage threshold value corresponding to the transponder-talks-first mode of the transponder, wherein the third voltage threshold value is lower than the first voltage threshold value” (emphasis added). For reference, the identified language of claim 15 relates to the previous language of claim 25, which is now canceled.

In support of the rejection of claim 25, the Office Action relies on Official Notice directed to the purported obviousness of “generating a second voltage threshold that is higher than a first voltage threshold.” However, the rejection of claim 15, as amended, should be withdrawn for at least two reasons. First, the Official Notice asserted by the Examiner is improper because the Office Action does not present any evidentiary support. Second, even if the asserted Official Notice were proper, the Office Action fails to establish a *prima facie* rejection of the indicated subject matter because the subject matter identified in conjunction with the Official Notice does not address the specific limitation of the claim.

Response to Official Notice. Applicant respectfully traverses the “Official Notice” taken by the Examiner in the Office Action. In particular, the Examiner takes Official Notice for generating a second voltage threshold that is higher than a first voltage threshold. The MPEP provides very strict guidelines to limit the availability of official notice. In particular, the MPEP states it is not appropriate for the Examiner to take Official Notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. MPEP 2144.03(A). The MPEP also states it is never appropriate to rely solely on “common knowledge” in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. MPEP 2144.03(A) (citing In re Zurko, 258 F.3d at 1385 (Fed. Cir. 2001)). Furthermore, if Official Notice is taken without providing documentary evidence, the basis of the Official Notice must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge. MPEP 2144.03(B) (citing In re Soli, 317 F.2d at 946 (CCPA 1963) and In re Chevenard, 139 F.2d at 713 (CCPA 1943)). Here, the Office Action fails to provide evidentiary support for the assertion of Official Notice. There is no discussion of the facts, if any, that the Examiner might rely on to form such conclusions. Moreover, the Office Action relies solely on the Official Notice as the principal evidence for the rejection of the subject matter previously recited in claim 25. No other support is provided. Therefore, the rejection based on Official Notice is improper because it relies on Official Notice without providing evidentiary support. Given that the Office Action provides no specific factual findings and no explanation of related technical and scientific reasoning, the rejection based on Official Notice is improper. Accordingly, Applicant respectfully traverses the Official Notice taken by the Examiner in the Office Action.

No Prima Facie Rejection. In order to establish a *prima facie* rejection of a claim, the Office Action must present a clear articulation of the reason why the claimed invention would have been obvious. MPEP 2142 (citing *KSR International Co. v. Teleflex Inc.*, 550 U.S. \_\_\_ (2007)). Here, the Office Action fails to explain why the claimed limitations currently recited in amended claim 15 would have been obvious because the Office Action does not acknowledge the actual language of claim 15, as

amended. In particular, the Office Action fails to acknowledge the language which recites “a third voltage threshold value corresponding to the transponder-talks-first mode of the transponder, wherein the third voltage threshold value is lower than the first voltage threshold value” (emphasis added). Although the Examiner attempts to take Official Notice regarding generating a second voltage threshold value that is higher than a first voltage threshold value, the discussion of the first and second threshold values does not address the third voltage threshold value recited in the claim. In fact, the Office Action does not even make an assertion that the cited references might describe the indicated limitation, or that the indicated limitation might otherwise be obvious in light of the cited references. Thus, it appears that the Office Action fails to acknowledge or appreciate the limitation related to the third voltage threshold value. Therefore, the Office Action fails to establish a *prima facie* rejection for language currently recited in claim 15 because the Office Action does not assert or show how the cited references might teach a third voltage threshold value, according to the language of the claim. Accordingly, Applicant respectfully submits that the rejection of claim 15, as amended, under 35 U.S.C. 103(a) should be withdrawn because the Office Action fails to establish a *prima facie* rejection of the claim.

It should be noted that, although the Official Notice of the Office Action is directed to the subject matter of canceled claim 25, this traversal of the lack of supported and irrelevance of the asserted Official Notice is equally applicable to the subject matter currently cited in claim 15, to the extent that the subject matter recited in claim 15 relates to the subject matter previously recited in canceled claim 25. Since the Official Notice is improper and, additionally, does not serve to establish a *prima facie* rejection of the subject matter currently recited in claim 15, Applicant respectfully submits that claim 15 is patentable over the cited references. Accordingly, Applicant requests that the rejection of claim 15 under 35 U.S.C. 102(b) be withdrawn.

#### Independent Claim 28

Applicant respectfully asserts independent claim 28 is patentable over the combination of cited references at least for similar reasons to those stated above in regard to the rejection of independent claim 15. In particular, claim 28 recites “a third voltage

threshold value corresponding to the transponder-talks-first mode of the transponder, wherein the third voltage threshold value is lower than the first voltage threshold value” (emphasis added).

Here, although the language of claim 28 differs from the language of claim 15, and the scope of claim 28 should be interpreted independently of claim 15, Applicant respectfully asserts that the remarks provided above in regard to the rejection of claim 15 also apply to the rejection of claim 28. Accordingly, Applicant respectfully asserts claim 28 is patentable over the combination of cited references because the Official Notice is improper and the Office Action does not establish a *prima facie* rejection of the subject matter of the claim, as explained above.

#### Dependent Claims

Claims 16-24, 26, 27, and 29-34 depend from and incorporate all of the limitations of the corresponding independent claims 15 and 28. Applicant respectfully asserts claims 16-24, 26, 27, and 29-34 are allowable based on allowable base claims. Additionally, each of claims 16-24, 26, 27, and 29-34 may be allowable for further reasons.

## CONCLUSION

Applicant respectfully requests reconsideration of the claims in view of the proposed amendments and remarks made herein. A notice of allowance is earnestly solicited.

At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account **50-3444** pursuant to 37 C.F.R. 1.25. Additionally, please charge any fees to Deposit Account **50-3444** under 37 C.F.R. 1.16, 1.17, 1.19, 1.20 and 1.21.

Respectfully submitted,

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